

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

6.281 ACRES OF LAND, MORE OR LESS,
SITUATE IN STARR COUNTY,
STATE OF TEXAS, *ET AL.*,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

CASE NO. 7:20-CV-011

OPPOSED MOTION TO ADD PARTIES

The Plaintiff, United States of America, by and through the undersigned Assistant United States Attorney for the Southern District of Texas, moves to add the following parties as Defendants pursuant to Rule 71.1(c)(3) of the Federal Rules of Civil Procedure:

A. Marlene Alvarez Guerra

Mission, TX 78573

(by virtue of the *Est. of Reynaldo Alvarez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.*)

B. Elisabel Lopez

Mission, TX 78574

(by virtue of the *Est. of David Dewayne Lopez, via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.*)

- C. Abel David Lopez
Mission, TX 78573
(by virtue of the Est. of David Dewayne Lopez, via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.)
- D. Migdalia Lopez
Pasadena, TX 77502
(by virtue of the Estate of Exiquio Lopez, Jr., via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.)
- E. Miracle Nichole Lopez
Pasadena, TX 77502
(by virtue of the Estate of Exiquio Lopez, Jr., via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.)
- F. Exiquio Raul Lopez, III
Pasadena, TX 77502
(by virtue of the Estate of Exiquio Lopez, Jr., via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.)
- G. Lilliana Lee Lopez
Pasadena, TX 77502
(by virtue of the Estate of Exiquio Lopez, Jr., via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.)

- H. Amy Yvonne Lopez
Rio Grande City, TX 78582
(by virtue of the Estate of Exiquio Lopez, Jr., via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.)
- I. Maria Teresa Lopez
Pasadena, TX 77502
(by virtue of the Estate of Exiquio Lopez, Jr., via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.)
- J. Tracy Monique Lopez
Pasadena, TX 77502
(by virtue of the Estate of Exiquio Lopez, Jr., via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.)
- K. Eli Rey Lopez
Hutchinson, MN 55350
(by virtue of the Estate of Exiquio Lopez, Jr., via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-36864, Recorded January 12, 1953, Official Records of Starr County.)
- L. Eric Randy Lopez
Hutchinson, MN 55350
(by virtue of the Estate of Exiquio Lopez, Jr., via Est. of Delia A. Lopez, via Affidavit of Heirship, Document #: 252110, Recorded December 9, 2005, Official Records of Starr County, via Warranty Deed, Document #: 1952-

36864, Recorded January 12, 1953, Official Records of Starr County.)

1. On January 16, 2020, the United States filed a Complaint and Declaration of Taking in this action against those named in Schedule “G”, including the following heirs of Reynaldo Alvarez: Jose Antonio Alvarez, Reynaldo Alvarez, Jr., Norma Ruth Ozuna, Sandra A. Suarez, and Maricruz A. Zarate. (Dkt. Nos. 1-2). After the filing of this action, the United States received additional information confirming that Reynaldo Alvarez had another heir who was previously unknown to the United States, Marlene Alvarez Guerra. *See* Birth Certificate of Marlene Alvarez, attached hereto as Exhibit 1. As a result of this information, Marlene Alvarez Guerra has been identified as a party with an interest in the condemnation of the subject property as described in the Complaint and Declaration of Taking. (Dkt. Nos. 1-2).

2. Additionally, the United States named the Estate of David Dewayne Lopez¹ in Schedule “G” of the Complaint and Declaration of Taking. (Dkt. Nos. 1-2). After conducting research and obtaining additional information regarding this estate, the United States confirmed that David Dewayne Lopez died intestate on March 25, 2018 in Starr County, Texas. *See* Affidavit of Facts Concerning the Identity of the Heirs of David Dewayne Lopez, attached hereto as Exhibit 2. David Dewayne Lopez was unmarried and survived by two (2) children at the time of his death: Elisabel Lopez and Abel David Lopez. *Id.* David Dewayne Lopez’s children remain living at this time. *Id.* Because David Dewayne Lopez died intestate without leaving a spouse, his partial interest in the Subject Property passed in equal shares to his two (2) surviving children, Elisabel Lopez and Abel David Lopez. TEX. EST. CODE § 201.001(b). Accordingly, David Dewayne

¹ Although named as Est. of David Dawayne Lopez in Schedule “G” of the Declaration of Taking and Complaint in Condemnation, the correct spelling of the decedent’s name is David Dewayne Lopez. *See* Affidavit of Facts Concerning the Identify of the Heirs of David Dewayne Lopez, attached hereto as Exhibit 2.

Lopez's two (2) surviving children named above have been properly identified as additional parties with interests in the condemnation of the subject property as described in the Complaint and Declaration of Taking. (Dkt. Nos. 1-2).

3. The United States also named the Estate of Exiquio Lopez, Jr. in Schedule "G" of the Complaint and Declaration of Taking. (Dkt. Nos. 1-2). After conducting research and obtaining additional information regarding this estate, the United States confirmed that Exiquio Raul Lopez, Jr. died intestate on January 15, 2013 in Starr County, Texas. *See* Affidavit of Facts Concerning the Identity of the Heirs of Exiquio Raul Lopez, Jr., attached hereto as Exhibit 3. At the time of his death, Exiquio Raul Lopez, Jr. was married to Migdalia Lopez, and they had the following eight (8) children: Exiquio Raul Lopez, III, Lilliana Lee Lopez, Amy Yvonne Lopez, Maria Teresa Lopez, Miracle Nichole Lopez, Tracy Monique Lopez, Eli Rey Lopez, and Eric Randy Lopez. *Id.* Exiquio Raul Lopez, Jr.'s widow and eight (8) children all remain living at this time. *Id.* Because Exiquio Raul Lopez, Jr. died intestate with a surviving spouse, his partial interest in the Subject Property passed to his surviving wife and eight (8) children at the time of his death in the following manner: a one-third life estate to Migdalia Lopez with the remainder belonging to his surviving children, and two-thirds passing to his eight (8) children in equal shares. TEX. EST. CODE § 201.002(b). Accordingly, Exiquio Raul Lopez, Jr.'s surviving wife and eight (8) children named above have been properly identified as additional parties with interests in the condemnation of the subject property as described in the Complaint and Declaration of Taking. (Dkt. Nos. 1-2).

4. Pursuant to Federal Rule of Civil Procedure 71.1(c)(3), the United States is required to "add as defendants all those persons who have or claim an interest and whose names have become

known” The United States therefore asks that Marlene Alvarez Guerra, Elisabeth Lopez, Abel David Lopez, Migdalia Lopez, Exiquio Raul Lopez, III, Lilliana Lee Lopez, Amy Yvonne Lopez, Maria Teresa Lopez, Miracle Nichole Lopez, Tracy Monique Lopez, Eli Rey Lopez, and Eric Randy Lopez be added to this action in order that their interest in the proceeds of this land condemnation may be properly determined.

WHEREFORE, the United States respectfully requests this Court grant its Opposed Motion to Add Parties, and enter an order adding Marlene Alvarez Guerra, Elisabeth Lopez, Abel David Lopez, Migdalia Lopez, Exiquio Raul Lopez, III, Lilliana Lee Lopez, Amy Yvonne Lopez, Maria Teresa Lopez, Miracle Nichole Lopez, Tracy Monique Lopez, Eli Rey Lopez, and Eric Randy Lopez as Defendants in this case. The United States has already been in contact with all additional parties except for Abel David Lopez and Maria Teresa Lopez. Should the Court grant this motion, the United States will file an Amended Schedule “G”, and serve Notice on the added parties as required under Federal Rule of Civil Procedure 71.1.

DATED: May 29, 2020.

CERTIFICATE OF CONFERENCE

On May 28, 2020, the undersigned Assistant United States Attorney conferred with opposing counsel for Defendant Leonel Romeo Alvarez by telephone, and he is opposed to the filing of this motion.

From May 18, 2020 to May 28, 2020, the undersigned Assistant United States Attorney conferred or attempted to confer with all known *pro se* Defendants by telephone.

The following *pro se* Defendants are unopposed to the filing of this motion: Reynaldo Lopez, Leticia L. Cruz, Reynaldo Alvarez, Jr., Jose Antonio Alvarez, and Maricruz A. Zarate.

The undersigned Assistant United States Attorney has been unable to make contact or receive a response from the following *pro se* Defendants: Jose I. Villarreal, Guadalupe G. Villarreal, Noe Villarreal, Norma Ruth Ozuna, and Iris Lopez Garza despite attempts to contact them at their last known phone numbers.

Because one of the Defendants is opposed and the undersigned Assistant United States Attorney has been unable to make contact or receive a response from all remaining Defendants regarding their opposition at this time, this motion is opposed.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney
Southern District of Texas

By: *s/ Roland D. Ramos*
ROLAND D. RAMOS
Assistant United States Attorney
Southern District of Texas No. 3458120
Texas Bar No. 24096362
1701 W. Bus. Highway 83, Suite 600
McAllen, TX 78501
Telephone: (956) 618-8010
Facsimile: (956) 618-8016
E-mail: Roland.Ramos@usdoj.gov
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I, Roland D. Ramos, Assistant United States Attorney for the Southern District of Texas, do hereby certify that on this 29th day of May, 2020, a copy of the foregoing was served on all parties in accordance with the Federal Rules of Civil Procedure.

By: *s/ Roland D. Ramos*
ROLAND D. RAMOS
Assistant United States Attorney